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Summary record of the 3513th meeting*
Held at the Palais Wilson, Geneva, on Wednesday, 18 July 2018, at 10 a.m.

Chair: Mr. Shany
later: Ms. Waterval (Vice-Chair)

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* No summary records were issued for the 3506th to 3512th meetings.

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The meeting was called to order at 10.10 a.m.

Organizational and other matters, including the adoption of the report of the Working Group on Communications (*continued*)

Election of a vice-chair

1. **The Chair** said that Ms. Jelić had resigned from the Committee following her election to the European Court of Human Rights. The Committee would therefore elect a new vice-chair to serve for the remainder of her unexpired term, in accordance with rule 22 of the Committee's rules of procedure.

2. **Mr. de Frouville** said that, in line with the principle of equitable geographical distribution, Ms. Jelić should be replaced by another member from the Eastern European Group. However, in electing its officers, it was the Committee's established practice to elect member who had already served on the Committee for at least two years. At present, there was no member who met both of those requirements. He therefore nominated Ms. Cleveland to serve as Vice-Chair, in accordance with rule 22 of the Committee's rules of procedure.

3. **Mr. Fathalla** and **Ms. Waterval** seconded the nomination.

4. *Ms. Cleveland was elected Vice-Chair by acclamation.*

5. *Ms. Waterval (Vice-Chair) took the Chair.*

Draft general comment No. 36 on article 6 of the Covenant (Right to life) (*continued*) (CCPR/C/GC/R.36/Rev.4)

6. **The Chair** invited the Committee to resume the second reading of its draft general comment No. 36 on article 6 of the International Covenant on Civil and Political Rights (Right to life) at paragraph 26.

Paragraph 26 (*continued*)

7. **Mr. Shany** (Rapporteur for the general comment) said that, following suggestions made by Mr. de Frouville at a previous meeting, he proposed that the words "appropriate legislative and other" should be inserted before the word "measures" in the second sentence and that the words "and of the right of victims to obtain an effective remedy" should be inserted at the end of the paragraph.

8. **Mr. de Frouville** said that he was largely satisfied with those proposals. In addition, however, the paragraph should refer to "corporate responsibility", rather than "corporate social responsibility", as it was less restrictive and reflected a broader responsibility to protect the right to life. Moreover, to shorten the text and improve its clarity, he proposed deleting the words "taking place in whole or in part within their territory and in other areas subject to their jurisdiction" from the second sentence and simply inserting the words "within their territory" after the word "entities".

9. **Mr. Shany** said that, in principle, he had no objection to the proposals and agreed that the word "social" should be deleted so that the paragraph referred to the broader and more appropriate concept of "corporate responsibility". However, the proposed redrafting of the second sentence could be considered to shift the focus of the jurisdictional condition from the State to corporate entities. It would therefore be preferable to retain that wording but to use the word "and" rather than "or" in the phrase "within their territory and subject to their jurisdiction" in order to reflect the language used in article 2 (1) of the Covenant.

10. Proposed changes to the footnotes had been submitted by Mr. de Frouville whereby the reference to the case of *Cañón Garcia v. Ecuador* in footnote 80 would be replaced with a reference to the Committee's concluding observations on the sixth periodic report of Poland (CCPR/C/POL/CO/6), which addressed the State's responsibility for actions carried out on its territory, and the reference to the case of *Basem Ahmed Issa Yassin et al. v. Canada* in footnote 81 would be deleted and replaced by a reference to the concluding observations on the sixth periodic report of Germany (CCPR/C/DEU/CO/6) and the fourth periodic report of the Republic of Korea (CCPR/C/KOR/CO/4).

11. **Ms. Brands Kehris** said that she shared Mr. Shany's concern that the proposed change to the second sentence would alter the emphasis of the paragraph and narrow its focus. She would support a formulation that made it clear that the reference to "all activities" did not refer exclusively to corporate activities.

12. **Mr. Heyns** said that he supported the deletion of the word "social". However, if the words "taking place in whole or in part within their territory or in other places subject to their jurisdiction" after the word "activities", were deleted, it would no longer be clear which "activities" were being referred to.

13. **Ms. Cleveland** said that she supported the proposals made by Mr. de Frouville in principle, but she felt that his proposed language might render the scope of the paragraph less clear. In order to avoid any suggestion that jurisdiction required control over a place or territory, the references to other areas or places subject to a State party's jurisdiction in the first two sentences should be replaced with the words "within their territories or subject to their jurisdiction", which was the language normally used by the Committee.

14. **Mr. Politi** said that the language proposed by Mr. de Frouville would make the scope of the paragraph overly broad and render its meaning unclear. He supported the language proposed by Ms. Cleveland and the deletion of the word "social".

15. **Mr. Santos Pais** said that he would prefer to retain the second sentence in the paragraph in its current form.

16. **Mr. de Frouville** said that, at present, the paragraph covered State or corporate activities which were conducted within a territory or area subject to State jurisdiction but which had an effect outside that territory, such as in the event of transboundary environmental damage caused by toxic fumes crossing a State's international border. However, the case of *Basem Ahmed Issa Yassin et al. v. Canada*, mentioned in footnote 81, referred to the activities of a company registered in Canada that had had no impact in Canada and that had been conducted in the Occupied Palestinian Territory, over which Canada exercised no jurisdiction. The current wording did not sufficiently encompass such a possibility, as it referred only to activities within a territory. The reference to that case should therefore be deleted if the paragraph did not explicitly address the responsibility of States to ensure respect for the Covenant by companies registered in their territory but which conducted activities outside their territory.

17. **Mr. Heyns** said that, while he shared the sentiment behind the proposal made by Ms. Cleveland, her proposed language would create a reference in the first sentence to "corporations operating within their territories or subject to their jurisdiction", which could be overly restrictive. It should be noted that the word "areas" was used in the first sentence and the word "places" was used in the second sentence; it was preferable to use the former as it could refer to aerial spaces.

18. **Mr. Politi** said that it might be helpful to refer to the concept of control as well as the concept of jurisdiction.

19. **Mr. Shany** said that the reference to *Basem Ahmed Issa Yassin et al. v. Canada* should be retained as it referred to the responsibility of States and occupying Powers to prevent violations of the right to life. To that end, he would support retaining the words "in other areas" to make it clear that States had a responsibility to protect persons against human rights violations in other countries where they conducted activities. The paragraph could also be reformulated to refer to "corporate entities based in their territories or subject to their jurisdiction" to establish that it referred to extraterritorial violations of the Covenant by entities based within a State, as well as to internal violations within that State. Moreover, in the second sentence, the words "in other places" could be deleted, as had been suggested.

20. **The Chair** said that she took it that the Committee wished to adopt the paragraph with the deletion of the word "social"; the insertion of the phrases "based in their territories or", "appropriate legislative and other" and "and of the right of victims to obtain an effective remedy"; and the alteration of the footnotes.

21. *Paragraph 26, as amended, was adopted, subject to the agreed drafting changes.*

Paragraph 27

22. **Mr. Shany** said that paragraph 27 dealt with special measures of protection for persons in situations of vulnerability. It contained a non-exhaustive list of categories of vulnerable persons and some examples of protective measures. The Government of Austria had proposed adding victims of human trafficking to the list of vulnerable persons; the Government of the Russian Federation had expressed the view that children should not be placed at the end of the list; and the Government of Switzerland had recommended referring to children in general, rather than street children. Amnesty International had proposed including a reference to victims of gender-based violence, while another humanitarian organization had drawn attention to the vulnerability of humanitarian workers. In the light of those comments, he proposed including references to humanitarian workers, victims of gender-based violence and victims of human trafficking in the second sentence and replacing "street children" with "children" in the third sentence. The general reference to women and children, at the end of the third sentence, would be rendered superfluous by those amendments and could therefore be removed.

23. **Mr. Muhumuza** said that the reference to street children should be retained because, in some countries, such children were specifically targeted and attacked by law enforcement officers. He proposed that the list should also include missionary workers in view of the risks that they faced.

24. **Mr. Santos Pais** said that he, too, was in favour of retaining the reference to street children. The Committee should also consider drawing attention to the fact that women and children were the primary victims of gender-based violence and human trafficking. Lastly, he proposed including judges and prosecutors, especially those investigating cases of corruption, in the list of vulnerable persons.

25. **Ms. Kran**, pointing out that the list was not intended to be exhaustive, said that general references to children and humanitarian workers would be sufficient to cover street children and missionary workers, respectively.

26. **Mr. Politi** said that the words "may also include" could be replaced by stronger language in order to avoid any implication that, under certain circumstances, the vulnerable persons referred to in the list might not be eligible for special protection. He proposed incorporating a reference to unaccompanied migrant children in view of the current importance of migration issues and the risks faced by such children.

27. **Mr. Fathalla** said that the purpose of the list was to provide examples of persons whose lives had been placed at particular risk because of specific threats or pre-existing patterns of violence. For that reason, it should refer to specific categories of children, such as street children and children in areas of conflict, rather than children in general. Migrant children were covered by the reference to displaced persons, which encompassed both adults and children.

28. **Mr. Shany** said that the second sentence referred to categories of persons who frequently found themselves under threat, whereas the third sentence listed broader categories of persons who might be at risk, depending on the circumstances; hence the use of the phrase "may also include". He was not convinced of the need to include missionary workers in the list, since that category of persons did not usually feature in the Committee's concluding observations and was, moreover, covered by the reference to members of religious minorities. He also felt that it was unnecessary to spell out the fact that the vast majority of victims of gender-based violence and human trafficking were women.

29. In the light of the Committee members' comments, he proposed including references to officials fighting corruption and organized crime, humanitarian workers and victims of gender-based violence and human trafficking. The words "street children" could be replaced with "children, especially street children, unaccompanied migrant children and children in situations of conflict".

30. *Paragraph 27, as amended, was adopted subject to minor drafting changes.*

Paragraph 28

31. **Mr. Shany** said that paragraph 28 dealt with the need to protect the right to life of persons with disabilities. The Government of the Netherlands had proposed aligning the wording with the text of the Convention on the Rights of Persons with Disabilities by replacing "essential goods and services" with "essential facilities and services". The Governments of the Russian Federation and the United States of America had questioned whether the issues covered in the paragraph fell within the Committee's remit, given that they concerned economic, social and cultural rights; he had not taken those comments on board, since the Committee operated on the basis that human rights were interdependent and indivisible. The International Disability Alliance had proposed referring to special measures rather than specific measures and clarifying the language on reasonable accommodation.

32. The Committee on the Rights of Persons with Disabilities had proposed removing the paragraph altogether and inserting a reference to persons with disabilities in the previous paragraph. That proposal was based on the view that persons with disabilities should not be singled out as a separate category requiring special treatment. That Committee had taken a similar stance during the discussions on general comment No. 35 on article 9 of the Covenant (Liberty and security of person). At the time, the Human Rights Committee had chosen not to accept that proposal on the grounds that human rights were indivisible and that not all States parties to the Covenant were parties to the Convention on the Rights of Persons with Disabilities and vice versa.

33. **Mr. Heyns** said that "persons with disabilities ... are entitled to special measures" could be replaced with "persons with disabilities ... are also entitled to special measures", so as to avoid the implication that such persons constituted a completely separate category. Noting that the articles of the Convention on the Rights of Persons with Disabilities mentioned in the footnotes did not directly concern reasonable accommodation, he proposed including a reference to articles 2 and 5 (3) of the Convention.

34. **Mr. Fathalla** said that the second sentence should refer to "use of force" rather than "excessive use of force", in line with the wording of the Charter of the United Nations.

35. **Mr. Shany**, drawing attention to footnote 86, said that the words "excessive use of force" had been taken from the Committee's concluding observations on the fifth periodic report of Australia (CCPR/C/AUS/CO/5). In that instance, the Committee had been concerned by reports of the use of taser guns against persons with disabilities. The Committee was not opposed to lawful use of force but rather to unjustified and excessive use of force by law enforcement agents. If the Committee wished, he could redraft the paragraph to reflect the comments that had been made.

36. **The Chair** said she took it that the Committee wished to consider a revised version of paragraph 28 at a later stage.

37. *It was so decided.*

Paragraph 29

38. **Mr. Shany** said that the paragraph concerned the heightened obligation of States to protect the right to life of persons who, as a result of being deprived of their liberty, were entirely subject to State control. The understanding was that such a degree of control engendered a higher degree of responsibility for the individual's welfare on the part of the State.

39. The Governments of Australia and the United Kingdom of Great Britain and Northern Ireland had expressed some concern with regard to the use of the term "heightened". The Government of the United Kingdom had pointed out that a State's duty to protect was absolute and could not be heightened or lessened according to the circumstances of the individual in detention. It had also proposed removing the word "regularly" before "monitoring" in the third sentence, as the term "monitoring" already implied periodicity. The Government of Japan had sought confirmation as to the level of health monitoring and medical treatment expected from States. In his view, the text, as drafted, conveyed the need for basic medical care and regular health monitoring, but not

comprehensive medical check-ups and advanced treatment. He did not concur with the view taken by the Government of the Russian Federation that the issues addressed in the paragraph were not directly linked to the right to life and thus not pertinent.

40. The Committee on the Rights of Persons with Disabilities had requested the inclusion of a reference to "reasonable accommodation for persons with disabilities", arguing that such accommodation could be life-saving. Mr. Scheinin, a former member of the Committee, had requested the inclusion of a reference to suicide prevention, which seemed reasonable given that suicides occurred more frequently in places of detention than in non-custodial settings. He was less inclined to heed a request to include the issue of force feeding of prisoners on hunger strikes. The matter was complex and controversial and would be best addressed in the context of the consideration of specific cases. Human Rights Watch had recommended that the list of institutions in the final sentence should be expanded to include residential institutions for persons with disabilities and similar privately run facilities whose operation was governed by State laws or policies.

41. Provided that the Committee members agreed, the term "heightened obligation" could be replaced with "heightened duty of care" in the first and second sentences. In the third sentence, the word "regularly" could be removed and the phrase "prevent suicide and provide reasonable accommodation for persons with disabilities" could be added after "inter-prisoner violence". In the final sentence, the term "State-run" could be expanded by replacing it with "liberty-restricting State-run facilities such as", followed by the illustrative list of institutions.

42. **Mr. Santos Pais** said that monitoring did not automatically imply periodicity; it could also occur occasionally. The word "regularly" was thus necessary and should be retained. He would also welcome the inclusion of a reference to State-run facilities for juveniles that were neither in conflict with the law nor orphans.

43. **Mr. Muhumuza** said that the word "regular" did not convey the desired frequency of health monitoring. "Regular" could be anything between every thirty minutes in the case of a person on suicide watch and once a year in the case of regular health checks, for example. In both instances, the monitoring occurred "regularly".

44. **Ms. Cleveland** said that it might be advisable to add the phrase "or otherwise depriving individuals of their liberty" after "imprisoning" in the first sentence, thus expanding its scope to include persons who were involuntarily committed to mental health institutions. By the same token, the term "inter-prisoner" in the third sentence should be deleted, as not all persons deprived of their liberty were necessarily prisoners.

45. **Mr. Heyns** said that it was his understanding that States parties' unease with the expression "heightened obligation" had to do with the notion of hierarchies of duty that was implicit in the term. Replacing it with "heightened duty of care" failed to address those concerns. It might be preferable to replace the word "heightened" with "particular".

46. **Mr. Shany** said that the term "heightened" conveyed the notion of a higher level of duty, but not necessarily in a hierarchical sense. However, should the Committee concur with Mr. Heyn's interpretation, the word could certainly be replaced by "particular".

47. While he recognized the value of adding the words "or otherwise depriving individuals of their liberty", he was not persuaded that the term "inter-prisoner violence" should be omitted. It was a term of art which, in the present context, conveyed a specific concern to States parties. Given that inter-prisoner violence was a particularly deadly phenomenon in many countries, retention of the reference was crucial. In the light of the Committee's preference for keeping the reference to regularity of monitoring, and taking on board Mr. Muhumuza's observations, the word "regular" could be changed to "appropriately regular". He wished to know whether a reference to "juvenile detention centres" might accommodate Mr. Santos Pais's concern.

48. **Mr. Santos Pais** said that he would prefer a broader term that also covered juveniles entrusted to the care of the State that were not in conflict with the law.

49. **Mr. Shany** said that it was important to keep sight of the essence of the paragraph, namely, its concern for persons forcibly deprived of their liberty. The term "quartered" in

the final sentence had been carefully chosen, as it conveyed the notion of the existence of a long-term relationship whereby the State served as a guardian that assumed an ongoing responsibility for those individuals. The Committee must guard against overly broad descriptions of the types of facilities concerned; in many States, day-care centres and kindergartens, for example, were also State-run. Further clarification as to the nature of the facilities that Mr. Santos Pais had in mind might be helpful.

50. **Mr. Santos Pais** said that his concern had to do with juveniles under State guardianship. They had nowhere else to go and were thus essentially deprived of their liberty. In such situations, a heightened duty of care should apply.

51. **Mr. Shany** said that, in the light of that clarification, he would propose adding the words "juvenile institutions" before "orphanages".

52. **The Chair** said that, if there were no further comments, she took it that the Committee members wished to adopt paragraph 29, subject to the amendments that had been discussed.

53. *Paragraph 29 was adopted, subject to the agreed amendments.*

The meeting was suspended at 11.50 a.m. and resumed at 12.10 p.m.

Paragraph 30

54. **Mr. Shany** said that the paragraph addressed the relationship between the right to life and general conditions in society that might jeopardize that right or the enjoyment of a life with dignity. Consequently, it addressed a range of issues normally associated with economic and social rights. The Committee might wish to note the use of the word "should" in relation to issues where the line between obligation and best practice was particularly fine. In other cases, more stringent language had been used.

55. The paragraph had given rise to considerable controversy. The Governments of Australia, the United States and Denmark had expressed varying degrees of concern about the broad connections made between compliance with article 6 and other rights, some of which were set forth in instruments other than the Covenant. They had also taken exception to a possible introduction of new legal obligations. In his understanding, the paragraph merely spelled out the way in which the Committee expected States parties to go about fulfilling existing obligations. The Government of Canada had expressed discomfort in regard to the idea that the right to life included a right to life with dignity insofar as it could be interpreted as encompassing certain social and economic entitlements.

56. In his view, however, the right to a life with dignity was an important aspect of the draft general comment. In connection with the criticism advanced by the Government of the Russian Federation that the Committee was encroaching on the mandate of the Committee on Economic, Social and Cultural Rights, it might be useful to recall that economic and social rights and civil and political rights were interdependent and interrelated. The Government of the United Kingdom had deemed the reference to pervasive traffic accidents to be disproportionate and had also proposed the deletion of the term "may eventually" in the first sentence. The Government of France had expressed overall support for the paragraph and had proposed the inclusion of a reference to additional life-threatening diseases. Although the list was illustrative rather than exhaustive, it might be useful to add a reference to tuberculosis, given its significance in terms of the large-scale loss of life. The Government of the Netherlands had requested clarification about the way in which cyberattacks related to the right to life.

57. The Expert Mechanism on the Rights of Indigenous Peoples had suggested that a reference should be added to the deprivation of land, which, in the case of indigenous peoples, entailed their deprivation of a dignified life. While he concurred with the substance of that recommendation, it might be unhelpful to broaden the already considerable scope of the paragraph even further. The Independent Expert on the enjoyment of human rights by persons with albinism had drawn attention to the role played by witchcraft and related harmful practices in undermining the right to life of persons with albinism and had requested the inclusion of a relevant reference. Witchcraft was already addressed elsewhere in the draft, but a reference to harmful practices might indeed be feasible. Amnesty

International had proposed the replacement of the term "domestic violence" with "gender-based violence" and the deletion of the term "deradicalization programmes". Although Human Rights Watch and others had called for the inclusion of a reference to climate change, bearing in mind the overall length of the paragraph and the fact that the issue was already addressed elsewhere in the draft, an additional reference in the paragraph under consideration might not be necessary. The International Federation for Spina Bifida and Hydrocephalus had proposed inserting the words "diseases associated with disabilities" before "which hamper access to medical care" to address the stigmatization of persons with disabilities. The Special Rapporteur on the right to adequate housing had requested that the paragraph should address the issue of inadequate housing. However, in his view, the notion of "inadequate" was rather vague, and it might be preferable to include a reference to "social housing" in the list of recommended long-term measures.

58. To sum up, if the Committee members agreed, he would delete the words "may eventually" in the first sentence and add the word "tuberculosis" after "AIDS" in the second sentence. A reference to the concept of "deprivation of land of indigenous peoples" could, but did not have to, be added after the word "malnutrition". The words "and social housing programmes" could be added after "(including firefighters, ambulances and police forces)", and the word "disability" could be inserted after "stigmatization associated with". In the same sentence, the words "domestic violence" could be replaced by "gender-based violence and harmful practices". For the sake of clarification, the words "resulting in disruption of essential services" could be added after "cyberattacks". Several States parties, NGOs and experts had advocated the deletion of the final sentence, which had been placed in square brackets. Since no one had proposed that the sentence should be retained, the Committee might usefully support its deletion.

59. **Mr. de Frouville**, supported by **Mr. Politi**, **Mr. Santos Pais**, **Mr. Heyns**, **Ms. Brands Kehris** and **Mr. Shany**, said that he proposed eliminating the references to "short-term" and "long-term" measures, lest they cause confusion. For instance, calling on States parties to take structural or "long-term measures" to meet immediate needs — by enhancing the effectiveness of emergency services, for example — was, to his mind, contradictory. He suggested that the examples of measures to protect the right to life in the third sentence should be introduced in the French version simply by the word "include" ("*comprennent*") and not "may include" ("*peuvent notamment comprendre*"), which was too broad. Moreover, States parties should be encouraged to take measures to ensure "immediate access" — rather than merely "access" — to essential goods and services.

60. He was in favour of including a reference in the second sentence to the harmful effects of climate change, given the importance of that particular topic. He could find no precedent for the inclusion of the reference to deradicalization programmes and would be interested to hear the Committee's views in that regard. He considered the final sentence to be redundant and agreed with the proposal that it should be deleted.

61. **Mr. Politi**, supported by **Mr. Santos Pais** and **Mr. Shany**, said that, since the subject of climate change was broached in a later paragraph, the words "pollution of the environment" could be replaced by "environmental degradation" or a similarly broad term. In line with Mr. de Frouville's sentiments regarding the need to ensure access to essential goods and services, he suggested removing the words "where necessary" from the third sentence.

62. **Mr. Santos Pais** said that the deprivation of indigenous peoples of their lands could not realistically be considered a general condition in society that gave rise to direct threats to life. Since such deprivation led to the loss of livelihoods and homes, he suggested instead that it should be linked to the concepts of extreme poverty and homelessness at the end of the second sentence.

63. **Mr. Heyns**, supported by **Ms. Brands Kehris** and **Mr. Shany**, proposed striking out the word "eventually" from the first sentence but keeping the word "may", since simply referring to "conditions that give rise to direct threats to life" actually afforded States parties more leeway.

64. Asking States parties to develop "action plans" to advance the enjoyment of the right to life was rather specific. Perhaps "strategies" or "measures" would be more appropriate.

65. **Ms. Brands Kehris**, supported by **Mr. Shany**, said that reference should be made to the deprivation of indigenous peoples of their "lands, territories and resources", which reflected the terminology used in the United Nations Declaration on the Rights of Indigenous Peoples. She would be reluctant to refer to such deprivation in the specific context of poverty and homelessness, since it had also been directly linked to violence against those peoples. She was in favour of omitting the reference to deradicalization programmes, since the effects of such programmes were a subject of controversy. At any rate, education on non-violence covered much of the same ground.

66. **Mr. Shany** said that, in the third sentence, "without delay" should be inserted after "measures designed to ensure access", in line with Mr. de Frouville's proposal, and "long-term measures" should be replaced with "other measures". Taking into account Mr. Heyns' concerns, he proposed replacing "action plans" with "strategic plans" in the fourth sentence. He supported the removal of the reference to deradicalization programmes, which were no longer a matter of current discourse.

67. *Paragraph 30 was adopted, subject to the agreed amendments.*

Paragraph 31

68. **Mr. Shany** said that, in line with the request of a human rights organization that wished to remain anonymous, he proposed cross-referencing the first sentence with paragraph 67, which addressed the interplay between article 6 of the Covenant and the laws of armed conflict. The Government of Canada had stated that a distinction should be drawn in the paragraph between best practices and obligations. The Government of France had proposed that, in the context of the paragraph under consideration, an exception should be made for military investigations in theatres of operations. It had also raised concerns about the issue of immunity. However, the general comment sought to make it clear that the duty to protect life applied in all situations, including armed conflict. In addition, the inclusion of the words "as a rule" in the final sentence provided scope for immunity in very exceptional circumstances.

69. He was not averse to including a reference in the first sentence to the obligation to investigate allegations of deprivation of life by international organizations, as had been proposed by the American Civil Liberties Union and others, although this could raise some difficult legal issues in which the Committee was not well versed.

70. Amnesty International had proposed that all amnesties should be prohibited inasmuch as they were contrary to the obligation to investigate allegations of deprivation of life and to prosecute such cases when grounds for doing so had been established. That organization had also suggested including a reference to due process standards in investigations, but that matter was partially covered in the next paragraph. Lastly, while it had proposed addressing the issue of statutes of limitations, he was wary of doing so since the deprivation of life could fall within the realm of either international crimes, for which there was not a statute of limitations, or domestic crimes, for which there might be such a limitation in some cases.

71. **Mr. Heyns**, supported by **Ms. Kran** and **Ms. Cleveland**, said that the first sentence, in referring to "the obligation to investigate and prosecute allegations of deprivation of life", could give the impression that an investigation necessarily led to the prosecution of a case. Moreover, it did not allow for situations where deprivation of life was apparent but had not been alleged. Drawing inspiration from the Minnesota Protocol on the Investigation of Potentially Unlawful Death, he proposed that it should instead refer to "the obligation on the State, where it knows or should have known of any potentially unlawful death, to investigate, and where appropriate, to prosecute those responsible". Similarly, the reference to "alleged deprivations of life" at the beginning of the third sentence should be changed to "potentially unlawful death". Lastly, he wondered whether the term "excessive use of lethal force" could be expressed more clearly.

72. **Ms. Kran**, supported by **Ms. Cleveland**, said that she thought it important to refer to "allegations of unlawful deprivation of life", rather than simply "allegations of deprivation of life", in the first sentence. She recalled that the term "potentially lethal force" had been used previously and considered it to be apt in the context of paragraph 31.

73. **Ms. Cleveland** said that if the obligation to investigate alleged deprivation of life by international organizations were to be mentioned, then, logically, allegations against other States should be mentioned too.

74. **Mr. Shany** said that he would circulate a new draft of the paragraph that incorporated the Committee's proposals at a subsequent meeting.

The meeting rose at 1 p.m.